

REMARKS

Claims 1-10, 12-16, 18-30; and 45-57 are pending in this application. Claims 1 and 17 have now been amended. New claim 57 has been added by this amendment. Applicants note with appreciation that the rejections under 35 U.S.C. §103 were withdrawn in the Office Action. The only rejection pending in this Action is a rejection of the previously pending claims as unpatentable under 35 U.S.C. § 112, second paragraph.

In addition, claims 1 and 17 have been amended to ensure that operations v is interpreted to encompass determinations made for any degree of similarity between a product string and an initial character string that is greater than 30%.

As an initial matter, the Examiner objected to claim 1 as being apparently grammatically incorrect. To improve readability, but not change scope, claims 1 and 17 have been amended to rearrange the text in the element reciting the selecting [selects] operation. It is respectfully submitted that the objection has been overcome.

The Examiner also objected to the specification. The typographical error identified on page 23, line 8 has been corrected by this amendment. Regarding the reference to URL internet citation on page 21, line 5, the specification has been amended to remove this reference to the NCBI. Hence the objection is now moot. No other web sites were identified in the specification. Note that in an amendment filed on February 26, 2001, the Applicants deleted references to URLs found at page 14, line 24 and page 37, lines 5-12. No other URLs have been found in the specification.

As indicated, all claims were rejected under 35 U.S.C. § 112, second paragraph. Specifically, the Examiner has stated that the phrase “concatenating said substrings to form one or more product strings about the same length as one or more of the initial character strings” is indefinite because *it is unclear what range of lengths is considered to be about the same length as the initial character strings*. As an initial matter, Applicants note that the phrase in question originally appeared in the claims as filed. Now, after four actions, the issue is raised for the first time.

Claim 1 requires selecting one or more product biological molecules *for production*. Those of skill in the art will recognize that one of goal of the claimed invention is to select molecules that possess properties similar to (and possibly improved over) those of the initial biological molecules from which the concatenated substrings were generated. The specification indicates the desirability of preserving some measure of biological activity or other property in the product strings generated by concatenation. To this end, one of skill will readily understand which product strings are "about the same length as one or more of the initial character strings." The product strings will be of about the same length as the initial character strings when they have a length understood by those of skill in the art to be appropriate (given the level of understanding at the time) for possessing a desired function or other property of the initial character strings.

The relevant inquiry in using relative terminology such as "about" is whether one of skill in the art would understand what is claimed, in light of the specification. MPEP 2173.05(b). It is respectfully submitted that one of skill in the art will understand the claim limitations in question. Note that when, as here, the prior art does not closely approach the claim limitations, applicants are given flexibility in using relative terminology.

Withdrawal of the rejections of the pending claims is respectfully requested.

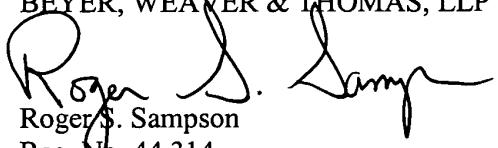
Applicants have submitted new claim 57, which does not contain the "about the same length" terminology. The new claim is otherwise similar to claim 1, except in that operation (v) determines whether the product strings "have at least a predefined measure of similarity with at least one initial character string." Support for this language is found at page 25, lines 17-22, for example. It is believed that new claim 57 avoids the prior art for at least the same reasons as the other pending claims.

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below. No fees appear to be necessary for the filing of

this Amendment. However, if the Commissioner determines that any fee is due, such fee may be charged to deposit account No. 50-0388 (Order No. MXGNP002X1).

Respectfully submitted,

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